photohardened." It appears that the Examiner is referring to the elements "forming an overcoat layer over the second substrate, the overcoat layer including a non-exposing material" and "forming an overcoat layer over the second substrate including the light-shielding layer and the color filter layer, the overcoat layer including a non-exposing material" in independent claims 1 and 26, respectively. Contrary to the Examiner's objection, the independent claims do not recite that the overcoat layer is not photo-hardened. Additionally, photo-hardened does not imply that the material is "exposing" or transparent. Photo-hardening is a process of curing a material, but does not necessarily describe whether the material is "non-exposing". Furthermore, at least pages 9 and 10 of the specification of this application describe that the overcoat layer can include a photo-hardening material. Applicant submits that claims 22-25 and 35-37 further limit the subject matter of claims 1 and 26, respectively. Applicant respectfully requests that the objection under 37 CFR 1.75(c) be withdrawn.

The Examiner rejected claims 1, 9-20, 26, and 29-34 under 35 USC § 102(e) as being clearly anticipated by Ohta et al. (US Patent No. 6,208,399). This rejection is respectfully traversed.

Independent claims 1 and 26 are allowable at least for the reason that claims 1 and 26 recite a combination of elements including "forming an overcoat layer... the overcoat layer including a non-exposing material." None of the cited references teaches or suggests each and every element of the claims.

The Examiner states on page 3 of the Office Action that *"[t]he overcoat being epoxy (a non-exposing type material) or acrylic is listed on col. 11, lines 14-24."* Ohta et al. recites in at least column 11, lines 14-24, that the overcoat film is formed of a transparent resin

material. Applicant submits that a transparent material cannot be "non-exposing" since transparent implies that the material is "exposing". Applicant respectfully submits that claims 1 and 26 are allowable over Ohta et al. since the reference does not teach or suggest an overcoat layer including non-exposing material. Applicant respectfully requests that the rejection under 35 USC § 102(e) be withdrawn.

Moreover, claims 9-20 and 29-34 are allowable by virtue of their dependence on claims 1 and 26, which are believed to be allowable.

The Examiner rejected claims 2-8, 27, and 28 under 35 USC S 103(a) as being unpatentable over Ohta et al. (US Patent No. 6,208,399). Applicant respectfully traverses this rejection.

As discussed above, Ohta et al. fails to teach or suggest each and every element of claims 1 and 26. Claims 2-8, 27, and 28 are allowable by virtue of their dependence on independent claims 1 and 26, believed to be allowable. Furthermore, the Examiner appears to take official notice by stating that electrodes on the same substrate, the black matrix, and the transparent conductive material are well known, but fails to cite a reference in support of his position. Applicant respectfully traverses the assertion that the combination of elements recited in claims 2-8, 27, and 28 are well-known, and request the Examiner to provide evidence in the next Office communication.

The Examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being "well-known" in the art. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). As set forth in M.P.E.P. § 2144.03, if an applicants traverses an assertion made by an Examiner while taking official notice, the Examiner should cite a reference in support of their assertion.

A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Applicants respectfully submit that they "seasonably" challenged the Examiner's statement as early as the Amendment filed on March 19, 2002 in response to the first Office Action and that the Examiner may not take the object of the well-known statement to be admitted prior art during examination. Further, Applicants directs the Examiner to the MPEP Section 2144.03 and again traverses the assertion that the features recited in claims 2-8, 27, and 28 are "well-known" and again requests the Examiner to cite a reference in support of his assertion.

Applicants believe the application is in condition for allowance and early, favorable action is respectfully solicited. Should the Examiner deem that a telephone conference would further the prosecution of this application, the Examiner is invited to call the undersigned attorney at (202) 496-7371.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136. Please credit any overpayment to deposit Account No. 50-0911.

Respectfully submitted,

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